

ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 14 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Kentucky Public Service Commission's
Petition for Delegation of Additional
Authority to Implement Number
Conservation Measures

CC Docket No. 96-98
NSD File No. L-00-08
DA 00-575

COMMENTS OF AT&T CORP.

Pursuant to Section 1.3 of the Commission's Rules, 47 C.F.R. § 1.3, AT&T Corp.

("AT&T") hereby submits its comments on the Kentucky Public Service Commission's
("KPSC") January 25, 2000 petition for additional authority to implement number conservation
measures ("Petition").

Shortly after the Public Notice seeking comments on the instant Petition was released, the
Commission issued its Report and Order and Further Notice of Proposed Rulemaking ("NRO
Order") in CC Docket No. 99-200.¹ As shown below, the NRO Order renders virtually all of the
Petition's requests for delegated authority moot by establishing federal requirements that govern
those matters. The Petition's request for authority to conduct mandatory interim thousands block
number pooling remains a live issue; however, the NRO Order expressly requires the KPSC to
make further factual showings in support of that request. Accordingly, the Commission cannot

¹ Numbering Resource Optimization, Report and Order and Further Notice of Proposed
Rulemaking, CC Docket No. 99-200 (released March 31, 2000) ("NRO Order").

No. of Copies rec'd
List ABCDE

014

act on that aspect of the instant Petition until the KPSC provides such information and the public is permitted to comment on that showing.²

Number Assignment. The Petition seeks (p. 6) “authority to enforce number assignment standards.” Paragraph 237 of the NRO Order grants this power to state commissions, permitting them “to investigate and determine whether code holders have ‘activated’ NXXs assigned to them within the time frames specified in this proceeding.” Accordingly, this aspect of the Petition is now moot.

Fill Rate Requirements For Growth Codes. The KPSC’s request (p. 7) for the power “to establish fill rates for growth codes that must be met before carriers may acquire additional codes” should be denied in light of the NRO Order’s steps to “adopt national verification standards to improve the efficiency with which numbering resources are being allocated and used.” NRO Order ¶ 91. That order established a national formula for calculating utilization, and requires all carriers not participating in pooling to achieve a “national utilization threshold” (¶ 115) beginning January 1, 2001. No valid purpose would be served by requiring carriers to modify their systems and operations to conform to a Kentucky-specific utilization rate for a period of -- at most -- a few months, only to incur this expense and disruption again when federal requirements take effect on January 1st. Similarly, the KPSC proposes (p. 7) to apply fill rates

² To the extent that the Commission determines that the issues raised in the instant Petition are not rendered moot by the NRO Order, AT&T hereby incorporates into these comments by reference (i) its prior pleadings concerning each of the previously filed state petitions for delegated authority to adopt number conservation measures, and (ii) its pleadings addressing the Commission’s Numbering Resource Optimization NPRM. Numbering Resource Optimization, Notice of Proposed Rulemaking, CC Docket No. 99-200 (released June 2, 1999).

“in all areas, whether or not thousand-number block pooling is currently effective within a given area,” while the NRO Order exempts pooling carriers from fill-rate requirements. See NRO Order ¶ 103. No meaningful number conservation benefits could be obtained by (and considerable costs and administrative burdens would be caused by) ordering pooling carriers to meet fill rate requirements for a period of a few months until federal standards take effect.

Sequential Number Assignment. The Petition also requests (p. 8) authority to require sequential number assignment, an issue that is directly addressed by the NRO Order. In the order (¶ 244), the Commission adopts a “flexible requirement that mandates that carriers first assign all available telephone numbers within an opened thousands-block before opening another thousands-block, unless the available numbers in the opened thousands-block are not sufficient to meet a customer request.” The order goes on to expressly require (¶ 246) “that existing delegations of sequential numbering authority conform to the provisions herein,” because of the “potential inconvenience and confusion from the existence of disparate requirements....” In light of these unequivocal rulings, the KPSC may not obtain authority to impose its own sequential number assignment standards, but must adhere to the requirements established in the NRO Order.

Reporting Requirements. The Kentucky commission also seeks the power to (p. 8) “require numbering utilization and forecasting reports by carriers.” However, the NRO Order establishes a semi-annual federal reporting regime (¶¶ 37-84), and expressly refuses to permit state commissions to impose their own reporting requirements. “We will not delegate authority to the states to impose additional regularly scheduled reporting requirements on any carriers. Such independent authority would undermine the purpose of establishing regularly scheduled federal reporting requirements, namely a uniform standard that all carriers could use in their

record keeping and reporting activities.”³ The KPSC’s request is plainly moot in light of this ruling.

Thousands Block Number Pooling. The Petition’s request (p. 7) for power to require mandatory thousands block number pooling does not provide the information that NRO Order deemed a prerequisite to any state request for such authority.

[T]o ensure that pooling is implemented in areas where it has the potential to be most beneficial, we require that states include a showing of specific criteria in their petitions for pooling authority. Each petition must demonstrate that: 1) that an NPA in its state is in jeopardy, 2) the NPA in question has a remaining life span of at least a year, and 3) that NPA is in one of the largest 100 MSAs, or alternatively, the majority of wireline carriers in the NPA are LNP-capable. To the extent that the pending state petitions do not demonstrate that the state possesses the criteria we require for future delegations of pooling authority, the state commission must supplement its existing filing with the Common Carrier Bureau within 30 days of release of this Report and Order.⁴

Before it can obtain authority to conduct mandatory interim pooling, the KPSC must make the showing described above, which should then be subject to public comment.

In addition to requiring the KPSC to supplement its Petition as described above, AT&T urges the Commission to ensure that any interim pooling plan for Kentucky satisfies the NRO Order’s mandates that (¶ 171) a “state commission must take all necessary steps to prepare an NPA relief plan when it seeks to implement a pooling trial in an NPA which is in jeopardy,” and that “non-LNP capable carriers operating in NPAs that are subject to pooling shall have the same access to numbering resources as they had prior to the implementation of pooling.” The KPSC

³ NRO Order ¶ 76; see also id. (“[I]n granting states access to the federally ordered reports, we are eliminating the need for states to require carriers to report utilization and forecast data on a regular basis. Thus, we supersede the authority specifically delegated to some states to require such reporting.”).

⁴ Id. ¶ 170 (emphasis added).

should be required to acknowledge, in conjunction with the further showing it must make in order to support its waiver request, that it will abide by these requirements.

Further, in considering pending state numbering waiver requests -- and in administering previously granted waivers -- the Commission must be mindful of its finding that

a staggered [pooling] rollout schedule is necessary, primarily because an overload of the telecommunications network may cause network disruptions when carriers' Service Control Points (SCPs) capacity has been depleted. Based on input we received from NeuStar, the current pooling administrator of ongoing state trials, we also tentatively conclude that the rollout should encompass a maximum of three NPAs in each NPAC region per quarter.⁵

Half of the nation's state commissions have now filed petitions⁶ seeking grants of interim pooling authority. The ten petitions the Commission has granted to date do not impose any direct limits on those states' ability to roll out pooling in a manner that conflicts with the NRO Order's finding that implementing that capability in more than three NPAs per NPAC region per quarter could jeopardize network reliability. Although the prior waivers permit states to roll out pooling only "in a single MSA in their state" and to "expand pooling to another MSA only after having implemented pooling in the initial MSA and after allowing carriers sufficient time to undertake necessary steps to accommodate thousands-block number pooling,"⁷ nothing in those

⁵ Id. ¶ 159 (emphasis added).

⁶ As of the date of the instant pleading, at least twenty-five state commissions have filed petitions seeking delegated authority over number administration. In addition to the KPSC petition, petitions have been filed by state commissions from Arizona, California, Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and Wisconsin.

⁷ NRO Order ¶ 170.

waivers explicitly requires states in the same NPAC region to coordinate implementation so as to avoid creating the very risk the NRO Order deems unacceptable.⁸ For example, the New York commission recently issued an order that would require, *inter alia*, pooling in four NPAs in that state alone in April 2001, exceeding the NRO Order's threshold.⁹ Meanwhile, both Massachusetts and Maine are in the same NPAC region as New York, and each of those states has been granted interim pooling authority as well, exacerbating the risks to network reliability due to a potential "race" among neighboring states to implement pooling as rapidly as possible so as to avoid being "left out" if SCP capacity problems emerge in their NPAC region. In light of the NRO Order's findings, the Commission should exercise its authority pursuant to 47 U.S.C. § 251(e) to require state commissions to coordinate their rollout of interim pooling programs, both in states that already have obtained waivers and in those that may do so in the future.

Other Authority. Finally, the Petition seeks (p. 9) a grant of "[a]ny other authority necessary to accomplish the above-listed items." This open-ended request exceeds the authority

⁸ The prior state numbering waivers recognize the risk of implementing pooling in an uncontrolled manner. The Commission expressed "concern[] about the potential strain which multiple thousands-block pooling trials in an Metropolitan Statistical Area (MSA), state, or region may have on the functioning of the public switched telephone network," and acknowledged that SCP capacity could be a limiting factor. E.g., Order, New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98, NSD File No. L-99-21, (released September 15, 1999) ¶¶ 12, 13.

⁹ See Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Instituting State-Wide Number Pooling and Number Assignment and Reclamation Procedures, Case 98-C-0689 (New York Public Service Commission, March 17, 2000), Appendix A (Attached as Exhibit 1 to this pleading).

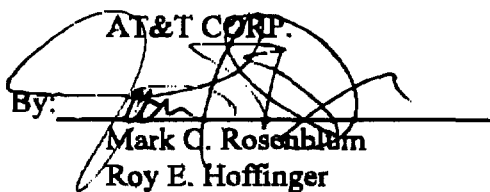
granted in the Commission's prior waivers, and conflicts with the NRO Order's repeated conclusions that national standards are essential to orderly numbering administration. The Commission has repeatedly held that it would potentially jeopardize the integrity of the nation's telecommunications networks to permit individual states to set potentially incompatible standards for number administration.¹⁰ Moreover, the sheer vagueness of this request makes it impossible for the Commission to determine whether the KPSC proposes to act in a manner consistent with the Communications Act or the Commission's policies and rules, and such relief therefore cannot lawfully be granted.

¹⁰ See, e.g., In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19022 ¶ 21 (1998) (holding that permitting state commissions to proceed with numbering administration measures “on a piecemeal basis” could “jeopardiz[e] telecommunications services throughout the country”). As AT&T has repeatedly stated, it does not contend that state commissions are incapable of crafting workable numbering policies, but rather that the decisions of dozens of autonomous regulatory bodies will inevitably diverge from – and even directly conflict with – one another.

CONCLUSION

AT&T urges the Commission to act on the instant Petition in a manner consistent with these comments.

Respectfully submitted,

AT&T CORP.
By: 
Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
295 North Maple Avenue, Room 1130M1
Basking Ridge, NJ 07920
(908) 221-4617

April 14, 2000

AT&T EXHIBIT 1

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on March 15, 2000

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 98-C-0689 - Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of Usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed.

ORDER INSTITUTING STATE-WIDE NUMBER POOLING
AND NUMBER ASSIGNMENT AND RECLAMATION PROCEDURES

(Issued and Effective March 17, 2000)

BY THE COMMISSION:

INTRODUCTION AND SUMMARY

In an Order issued December 2, 1999 in this proceeding, we took action on two number conservation measures: a) mandatory thousands block pooling was ordered to be implemented in the 716 Numbering Plan Area (NPA) by April 1, 2000^{1/} and b) all local exchange carriers were directed to implement wide area rate centers throughout the state, to be effective February 1, 2000. On December 10, 1999, in response to a request from the telephone industry, the Commission suspended the implementation of wide

^{1/} The implementation of pooling in the 716 NPA was undertaken pursuant to authority delegated by the Federal Communications Commission (FCC). In the Matter of New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98; NSD File No. L-99-21; Order, rel. Sept. 15, 1999 (hereinafter "FCC Delegation Order").

area rate centers pending the outcome of efforts by an industry working group convened and coordinated by Staff to examine operational and financial issues associated with the implementation of wide area rate centers. In January, Staff reported that a three-pronged collaborative effort had been established to examine the financial and operational issues as well as to explore alternatives to wide area rate centers, and that these efforts were planned to be concluded in time for the Commission to evaluate the wide area rate center issue at our March 15, 2000 session.

Based on the results of the collaborative efforts, including the final reports of the industry working groups, we are now in the position to move forward to implement a staged schedule of thousands-block number pooling throughout New York State. Moreover, we are ordering additional measures to increase the efficiency of central office or "NXX" code use, in the form of criteria for assignment of growth codes, monitoring of carriers' use of initial and growth codes, and reclamation of unused codes.

IMPLEMENTATION OF NUMBER POOLING IN 716 NPA

Staff reports that all companies are on track for meeting the April 1, 2000 deadline for implementation of thousands-block pooling in the 716 NPA. As part of the implementation process, we directed the industry to select and contract with a neutral number pooling administrator and to develop a method to allocate administrative costs among the industry members. The industry has selected NeuStar, which currently is the North American Numbering Plan Administrator, the number portability administrator, and pooling administrator for the New York City voluntary pooling process, and is negotiating a contract through the North American Portability Management (NAPM) LLC, in compliance with the December 2, 1999 Order. The industry also, through the collaborative process, selected the same cost allocation methodology approved by the FCC for division of number portability administration costs. The final allocation

percentages, which will be spread among all New York State telecommunication carriers, still must be developed. We find that the steps taken so far in these two matters by the industry are in accord and compliance with the Commission's Order.

WIDE AREA RATE CENTERS AND
STATE-WIDE POOLING AS AN ALTERNATIVE

In our December 2, 1999 Order, we determined that implementation of wide area rate centers had the potential to significantly reduce carrier demand for number resources as well as replace the need for and allow recovery of already assigned resources.^{1/} We expressed a preliminary view that implementation of wide area rate centers would not have a significant impact on existing carrier retail rates and revenues, but we did not reach a firm conclusion on the issue. Instead, we left it to be resolved in further collaborative efforts aimed at implementing wide area rate centers.

In response to a request from the New York State Telecommunications Association, we suspended the requirement that tariffs be filed implementing wide area rate centers so that industry efforts could be concentrated on identifying and resolving implementation issues through a collaborative effort.

Staff has reported on the results of that collaborative effort and provided final reports from three committees that were formed to address financial issues, operational issues, and alternatives to wide area rate centers, respectively. Although there was general agreement that some implementation issues could be readily resolved, there was no such agreement on most. There was wide disagreement on revenue impact issues. It was clearly evident that lack of interconnection agreements among non-contiguous local exchange carriers (i.e., the smaller

^{1/} Under the wide area rate center approach a single NXX code could be used in the entire area covered by the area code within a LATA. For local call rating purposes, the wide area NXX would appear to be part of every local calling area in that wider area.

independents and the CLECs that most likely would employ wide area rate centers) is an impediment to implementation of wide area rate centers. Both these major issue areas would need resolution before wide area rate centers could be effectively deployed. We expect that carriers providing service in the same local calling area will engage in earnest effort to negotiate interconnection agreements for the exchange of local traffic not only as a necessary predicate to wide area rate center calling but also to meet the demands of the newly competitive market.

While the financial and operational collaborative efforts thus highlighted some difficult issues to be resolved in implementation of wide area rate center calling, the alternatives group proposed statewide implementation of thousands-block pooling as a viable alternative for achieving our conservation objectives. There was general agreement among committee members to the thousands-block pooling implementation schedule set forth in Appendix A, as a balance between the urgency of pooling implementation and the operational concerns of the pooling participants. The number plan priorities were selected based upon projected exhaust dates for each area and other consumption considerations.

Under this proposed pooling schedule, all number portability capable telephone companies would implement thousands-block number pooling as of the indicated start dates. Bell Atlantic-New York (BA-NY) would phase in its pooling participation in accordance with the three-part phase-in schedule. At the outset of pooling in each number plan area, BA-NY would meet its need for additional number resources from full NXX assignments and would return unneeded blocks from those full NXXs to the pool for potential assignment to others. In a second phase, BA-NY could contribute vacant and partially contaminated 1000s blocks to the pool from its pre-pooling inventory of NXXs. In the third phase (which can precede the second in some instances), BA-NY would be able to meet number resource needs from the generally available pool of numbers. Once the second

and third phases are in place, BA-NY would be fully participating in pooling.

Although wide area rate centers hold promise for telephone number utilization efficiencies, the pooling implementation alternative developed by the alternatives committee represents a far more immediate and more promising means of achieving our telephone number efficiency objectives. The implementation of thousands-block number pooling statewide by August 31, 2001 in accordance with the proposed implementation schedule represents a significant measure toward effective number resource management. Its development through a staff-industry consensus process assures that it can be implemented effectively and meets the requirement in the FCC Delegation Order that we allow sufficient transition time for carriers to undertake necessary steps, so as not to disrupt network operations or reliability.^{1/} Therefore, we will adopt the pooling implementation plan and defer further consideration of wide area rate center implementation until the effects of pooling on number conservation are known.

The staggered implementation of number pooling gives rise to a concern that number consumption in the pre-pooling environment could be unduly inefficient. One major concern is that number allocations, which would be in the form of full NXX codes in the pre-pooling environment, may be made to rate centers where such allocations would not have been made if pooling were in effect. Once an NXX code (10,000 numbers) is assigned to a rate center, it cannot be used elsewhere, even though there might never be a need for the spare numbers freed up by pooling in that rate center. The resolution of this issue will be the subject of a further order.

ADDITIONAL CONSERVATION MEASURES

In the FCC Delegation Order, the FCC granted authority to the Commission to set minimum "fill rates" which carriers

^{1/} FCC Delegation Order at ¶¶ 18, 19.

would have to meet in order to be eligible to obtain additional resources as well as requiring carriers to submit a utilization survey in connection with requests for additional resources.^{1/} The FCC has also granted us authority to implement processes designed to reclaim assigned resources that have not been activated in accordance with the Central Office (CO) Code Assignment Guidelines.^{2/} This reclamation authority pertains to both initial and growth codes. In addition, the FCC has authorized the Commission to conduct audits of carriers' use of number resources.^{3/}

Carriers and other interested parties have had several opportunities to comment on these conservation measures, first in response to a Ruling Inviting Comments issued by ALJ Linsider on October 15, 1998 and more recently in response to a Notice Requesting Comments issued September 24, 1999.^{4/} Comments in response to the September 24, 1999 Notice were submitted by AT&T, Bell Atlantic-New York (BA-NY), Bell Atlantic Mobile (BAM), Cablevision Lightpath (Cablevision), Choice One, Focal Communications (Focal), MCI Worldcom, NEXTEL, New York State Telecommunications Association (NYSTA), Omnipoint, RCN Telecom Services of New York (RCN), Sprint PCS, and Time-Warner. Reply comments were submitted by AT&T, BA-NY, BAM, Focal, MCI Worldcom, NYSTA, RCN, and Westchester County.

^{1/} FCC Delegation Order at ¶ 25.

^{2/} Id. at ¶¶ 22-23.

^{3/} Id. at ¶ 35.

^{4/} In addition, notices were published in the New York State Register on December 29, 1999 proposing Commission rules to modify standards for assignment of NXX codes and to mandate standards and establish enforcement procedures for carrier use of NXX codes. No further comments were received in response to these notices.

ISSUANCE OF GROWTH CODES

Under the current CO Code Assignment Guidelines established by the industry, an NXX code is assigned to carriers as either an initial code or a growth code. A growth code is an additional NXX code requested when the available telephone numbers in previously assigned NXX codes in the rate center will not meet expected demand. To obtain a growth code, an applicant must certify to NANPA that its existing codes within the rate center will exhaust within 12 months and it must prepare a "months-to-exhaust" worksheet. In jeopardy NPAs,^{1/} carriers must certify that existing NXXs will exhaust within six months.

a. Staff Proposal

Staff proposes a series of measures that are intended to increase carrier accountability for code requests and to ensure that there is a bona fide need for number resources. A key portion of Staff's proposal is the use of fill rates in demonstrating a need for new growth codes. Staff proposes that all carriers seeking a growth code meet a two-part test in order to qualify for the code. Under Staff's proposal, a carrier must be able to show that (1) its percent utilization of numbers, or "fill rate", within a rate center is at least 75% and (2) that its months-to-exhaust projection indicates an exhaust of telephone numbers within six months.

A carrier would be required to submit the following information in support of its application: (1) one year historic growth in the rate center; (2) if the projected demand in the months-to-exhaust estimate exceeds the historic growth by more than 15%, an explanation of the deviation, along with proof of firm orders for service or other support; (3) a description of all efforts to conserve numbers, such as reduced intercept times, rate center consolidation efforts, and a review of all reserved telephone numbers in the applicant's inventory.

^{1/} An NPA is declared to be in jeopardy when the forecasted demand for new central office codes exceeds the supply.

There is some concern that certain high-growth carriers (e.g., wireless) would not be able to meet the fill rate requirement in sufficient time to qualify for a growth code. To address this concern, Staff proposes to allow a carrier to file additional supporting documentation to justify its need even if it does not meet the initial threshold criteria for a new code.

b. Comments from Parties

Both AT&T and MCI assert that use of the months-to-exhaust methodology is superior to the use of fill rates. AT&T supports a hybrid approach where a carrier must meet both a fill rate and months-to-exhaust requirement or be available to demonstrate, on an exception basis, a bona fide need for numbering resources. BA-NY also supports allocations on an exception basis. In addition, BA-NY urges the Commission to adhere to the FCC's directive to establish fill rates that are not inconsistent with those imposed by other states. Focal supports a 75% fill rate level. Sprint PCS urges use of the procedures that were developed for jeopardy code allocations in the 516 area, whereby a carrier must furnish six months historic data and six months of forecasted data to support exhaust projections. BAM does not believe that fill rates would discourage poor utilization, since the fill rate requirement only applies to growth codes and not initial codes, and notes that lack of accountability and lack of enforcement represent the major flaws in the current process. If a fill rate proposal is adopted, BAM supports gradually increasing the fill rate level, starting at 60%, and annually raising to 65% and then 70%. Cablevision states that fill rates are punitive to CLECs. RCN notes that utilization thresholds unreasonably disadvantage new entrants. NEXTEL would prefer to use a more stringent months-to-exhaust level, such as reducing the threshold from 12 months to six months before a carrier is eligible for another code. NEXTEL suggests that 65% be used if a fill rate regime is implemented.

c. Conclusion

The current system whereby carriers self-certify the need for growth codes is inadequate. For example, the months-to-

exhaust projection cannot be easily verified since it is forward-looking and largely dependent on a good-faith estimate by the carrier.

We will adopt Staff's proposal for a two-part test, with allowance for exceptions based on additional documentation. The criteria will be applied to all carriers seeking NXX codes in New York State. The exception criterion meets the concerns expressed by the commenters. A fill rate of 75% represents a reasonable level when carriers need additional resources and has been generally agreed to by other states that have been given delegated authority by the FCC.

Carriers will be required to submit the documentation proposed by Staff. This supporting documentation forces a carrier to demonstrate genuine need for additional resources. If, based on the submitted information, a carrier meets both parts of the test, a new growth code will be assigned.

CODE RECLAMATION

The current CO Code Assignment Guidelines provide that carriers should activate codes within six months after the initially published effective date in the Local Exchange Routing Guide (LERG). Carriers are required to notify NANPA when the code is placed in service.^{1/} If the code is not in service after six months, NANPA can request the return of the code. If the carrier disagrees with the request, the carrier is allowed to explain why the code has not been activated. NANPA reviews the response, and if the answer is satisfactory, the carrier retains the code. If no satisfactory explanation is provided, the Guidelines provide for a series of notification letters followed by referral to the Industry Numbering Committee (INC) for resolution and, ultimately, to an appropriate regulatory body if INC is unable to reach consensus on resolution.

^{1/} This notification is done via a Confirmation of Code Activation form, also known as "Part 4".

In the Department of Public Service's petition to the FCC for additional delegated authority, this process was described as "inefficient and cumbersome, particularly in a competitive environment."^{1/} The petition continues, "In fact, the industry in New York has not enforced compliance with these guidelines."^{2/} Consequently, authority for the Commission to enforce the reclamation procedures more rigorously was sought.

The FCC delegated to the Commission authority to investigate whether code holders have activated NXXs assigned to them within the time frames specified in the CO Code Assignment Guidelines.^{3/} The FCC further instructed NANPA to reclaim NXXs that this Commission determines have not been activated in a timely manner.^{4/} In addition, the FCC stated that we need not follow the reclamation procedures set forth in the Guidelines in terms of referring the issue to INC, as long as the Commission allows the code holder to explain extenuating circumstances surrounding inactive codes.^{5/}

a. Comments from Parties

The September 24, 1999 Notice requested parties to comment on procedures for reclamation of unused and reserved NXX codes (pooled and unpooled). RCN, Cablevision, NEXTEL, and Sprint PCS all share concern that a more aggressive reclamation process penalizes new entrants. NEXTEL believes that carriers should be given an opportunity to explain the delay in activation of a new code. AT&T believes that reclamation can undermine local competition, notes that it has had problems achieving "in-

^{1/} In the Matter of New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 96-98; NSD File No. L-99-21; Petition, February 19, 1999, at p. 13.

^{2/} Id.

^{3/} FCC Delegation Order at ¶ 22.

^{4/} Id.

^{5/} Id. at ¶ 23.

service" status for some codes and supports code recovery according to the CO Code Assignment Guidelines. Sprint PCS believes that carriers should certify to the Commission that codes have been placed in service.

b. Discussion and Conclusion

Reclaiming unused codes serves to prolong the life of area codes. Therefore, we will exercise our authority to investigate code use and to direct reclamation of codes, where warranted, while meeting parties' concerns that they be given an opportunity to explain delays and be afforded the six months to activate as specified in the CO Code Assignment Guidelines. We direct all carriers with assigned number resources in New York State to certify that such resources have been activated or to identify those that have not been activated and to submit justification as to why unactivated resources should not be reclaimed. In addition, in order for this agency to better track compliance with the Guidelines, carriers should file the "Part 4" notification with Department Staff concurrent with their filings to NANPA.

REVIEW OF ALL CODE REQUESTS

In order to best carry out our imposition of a fill-rate requirement for growth codes and our increased involvement in the reclamation process, we find it necessary to monitor number assignments generally. We will require all carriers that submit applications to NANPA for NXX codes to submit copies of such applications to Department Staff as well. This process is already in place and has been agreed to by the industry in areas where jeopardy has been declared. Staff will also be able to assist NANPA by reviewing all forms and notifying NANPA of any abnormalities, such as lack of certification.

The Commission orders:

1. Mandatory thousands-block number pooling is established in the 716 NPA and will begin on April 1, 2000. All

local number portability (LNP)-capable carriers operating in the 716 NPA must participate in the thousands-block number pooling.

2. The implementation of wide area rate center calling will be deferred, pending the implementation of the thousands-block pooling regime state-wide. The requirement that carriers file tariffs to implement wide area rate center calling is suspended indefinitely, pending our analysis of the effectiveness of pooling.

3. As an alternative to wide area rate center implementation, mandatory thousands-block number pooling will be established throughout New York State in accordance with the schedule set forth in Appendix A. All LNP-capable carriers in New York State are required to participate in the thousands-block pooling.

4. Any carrier seeking a growth code in a given rate center must show that its percent utilization of numbers, or "fill rate," within the rate center is at least 75% and that its months-to-exhaust projection indicates an exhaust of telephone numbers within six months; or the carrier must, through additional supporting documentation, justify a bona fide need to serve customers through a growth code in the rate center. To establish that it meets these criteria, a carrier shall submit the documentation described in this Order to the Department's Office of Communications.

5. Each carrier with assigned NXX codes in New York State shall, on or before April 14, 2000, submit to the Commission a certification that its number resources have been activated or, for its number resources that have not been activated, justification as to why such unactivated resources should not be reclaimed.

6. All carriers filing a Confirmation of Code Activation Form, also known as "Part 4," with NANPA shall also file the same form concurrently with the Office of Communications.

7. All carriers seeking NXX codes, whether initial or growth codes, shall submit their applications to the Office of

CASE 98-C-0689

Communications concurrently with submission of the applications to NANPA.

8. This proceeding is continued.

By the Commission,

(SIGNED)

DEBRA RENNER
Acting Secretary

SCHEDULE FOR PHASE-IN
OF STATE-WIDE POOLING

| Area Code | Start Date | Phase-in of Bell Atlantic Participation | | |
|-----------|------------|---|------------------------------------|-------------------------------------|
| | | Pooling from Full NXX's ¹ | 1000's Block Donation ² | Using Blocks from Pool ³ |
| 516 | 7/1/00 | 7/1/00 | 5/1/01 | 4/1/01 |
| 518 | 9/15/00 | 9/15/00 | 9/15/00 ⁴ | 4/1/01 |
| 315 | 2/1/01 | 2/1/01 | 2/1/01 | 4/1/01 |
| 914 | 4/30/01 | 4/30/01 | 6/30/01 | 4/30/01 |
| 845 | 4/30/01 | 4/30/01 | 8/31/01 | 4/30/01 |
| 646 | 4/30/01 | 4/30/01 | 10/31/01 | 4/30/01 |
| 347 | 4/30/01 | 4/30/01 | 11/30/01 | 4/30/01 |
| 607 | 6/30/01 | 6/30/01 | 12/31/01 | 6/30/01 |
| 631 | 6/30/01 | 6/30/01 | 1/31/02 | 6/30/01 |
| 212 | 8/31/01 | 8/31/01 | 2/28/02 | 8/31/01 |
| 718 | 8/31/01 | 8/31/01 | 3/15/02 | 8/31/01 |
| 917 | 8/31/01 | 8/31/01 | 3/31/02 | 8/31/01 |

NOTES:

- ¹ Bell Atlantic will meet its need for additional number resources from assignment of new NXXs (and return unneeded 1000s block to pool) until it is capable of using blocks from pool
- ² Dates that Bell Atlantic will be able to contribute vacant and partially contaminated blocks to pool (from embedded resources existing at time of pooling implementation)
- ³ Dates that Bell Atlantic will be able to meet need for additional resources from block assignments from pool
- ⁴ Vacant blocks. Contaminated blocks-7/1/01.

CERTIFICATE OF SERVICE

I, Terri Yannotta, do hereby certify that on this 14th day of April, 2000, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first-class mail, postage prepaid to the party listed below:

Deborah T. Eversole
Amy E. Dougherty
Kentucky Public Service
Commission
730 Schenkel Lane
P.O. Box 615
Frankfort, Kentucky 40602



Terri Yannotta

August 20, 1999